IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 3673 of 1994

For Approval and Signature:

HON'BLE MR JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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RAMACHANDRA MALKASA JADI - Petitioner(s)

Versus

MANAGER, A'BAD MFG. & CALICO PRINTING CO. LTD.(CALICO MILLS & 2 - Respondent(s)

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Appearance :

MR PRABHAKAR UPADYAY for Petitioner No(s).: 1.

MS SUDHA R GANGWAR for Respondent No(s).: 1.
RULE SERVED for Respondent No(s).: 2.

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CORAM :HON'BLE MR JUSTICE KS JHAVERI

Date : 27/06/2005

ORAL JUDGMENT

1.0 The petitioner has challenged the judgment and award

of the Labour Court, Ahmedabad, dated 11.01.1994 passed in Recovery Application No.1877 of 1985, whereby the said application was rejected.

2.0 The petitioner herein was working as a Loom Fitter with the respondent Company since 13.10.1948. It is the case of the petitioner that since the respondent Company decided to abolish the post of Loom Fitter, it circulated a printed Resignation Form to the petitioner.

2.1 It is the case of the petitioner that in the said Form, he was forcibly made to put his signature on 09.01.1985. The petitioner has stated that since he has been forcibly made to resign from the service, under the provisions of the I. D. Act, he is entitled to receive retrenchment compensation @ 15 days wages per completed year of service. It is the case of the petitioner that an agreement at exh.19 was entered into between the T.L.A. and the respondent Company behind the back of the petitioner.

2.2 Feeling aggrieved by the aforesaid action of the respondent Company, the petitioner preferred an application being Recovery Application No.1877 of 1985 before the Labour Court, Ahmedabad. The Labour Court, Ahmedabad by impugned order dated 11.01.1994 rejected the said application of the petitioner. Hence, this petition.

3.0 Mr. Upadyay learned advocate for the petitioner has contended that the agreement itself suggests that the petitioner shall be entitled for retrenchment compensation and that it does not suggest that he shall be paid retrenchment compensation @ 9 days per completed year of service. He has, therefore, submitted that if the agreement

is taken as it is, the representative Union cannot decide that the petitioner should be paid retrenchment compensation @ 9 days instead of 15 days per completed year of service.

4.0 I have heard learned counsel for the parties and perused the documents placed on record. The Labour Court, while rejecting the application, has recorded a finding that the agreement between the representative Union and the respondent Company was entered on 11.01.1985 and that the petitioner had resigned from the service on 17.01.1985. Hence, it is clear that the petitioner had voluntarily submitted his resignation. I am in complete agreement with the reasonings given by the Labour Court in its impugned order and find no reason to interfere in this petition.

5.0 In above view of the matter, the petition is dismissed. The impugned order of the Labour Court, Ahmedabad, dated 11.01.1994 passed in Recovery Application No.1877 of 1985 is confirmed. Rule is discharged with no order as to costs.

(K. S. JHAVERI, J.)

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